

* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
And
HON'BLE SRI JUSTICE T. AMARNATH GOUD

+ W.P.No.5948 of 2014

%Date: 09-04-2018

Between:

1. 1. r. Venkata Ramana, S/o. R. Venkatappa, Occ: Junior Assistant, I Additional Junior Civil Judge Court, Madanapalli, Chittoor District.
2. P. Balasubramanyam Achary, S/o. Late Doraswami Achary, Occ: Junior Assistant, Principal Junior Civil Judge Court, Chittoor, Deputation at III Additional District Court, Tirupati, Chittoor District.
3. K. Sridhar Rao, S/o. Panduranga Rao, Occ: Junior Assistant, X Additional District Court, Tirupati, Deputation at Principal SCJ Court, Tirupati, Chittoor District.
4. K. Subbaiah, S/o. Munuswamy, Occ: Junior assistant, V Additional District Court, Tirupati, Chittoor District.
5. A. Khalimoon W/o. Sardhar Basha, Occ: Junior Assitant, Additional Junior Civil Judge Court, Punganur, Chittoor District.
6. K. Srinivasulu Naik, S/o. Chennaiah Naik, Occ: Junior Assistant, Additional Junior Civil Judge Court, Punganoor, Chittoor District.
7. N. Ramashekhar Reddy, S/o. Late Siva Rami reddy, Occ: Junior Assistant, Junior Civil Judge Court, Vilpadu, Chittoor District.
8. Altaf Basha, S/o. Abdul Razak, Occ: Junior Assitant, Principal SCJ Court, Chittoor, Chittoor District.

...Petitioners

Vs.

1. Gfovernement of Andhra Pradesh, Law Department, A.P. Secretariat, Hyderabad, rep. by its Chief Secretary to Government.
2. High court of Andhra Pradesh A.P. High court, Hyderabad – 500 002. rep. by its Registrar General.
3. High Court of Andhra Pradesh, A.P. High court, Hyderabad 500 002, rep. by its Registrar (Administration).
4. The District Judge, Chittoor, Chittoor District.

... Respondents

! For the Petitioners : Mr. P. Gangaiah Naidu, Sr. Counsel

^ For the Respondent No.1 : G.P. for Law & Legislative affairs

^ For the Respondents 2 to 4 : Mr. Posani Venkateswarlu

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? Cases referred

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE T. AMARNATH GOUD

W.P.No.5948 of 2014

ORDER: (per VRS,J)

The petitioners, who are now working as Junior Assistants in various Courts in Chittoor District, have come up with the above writ petition, seeking –

- (1) a declaration that Note-1 to Rule 5 of the A.P. Judicial Ministerial Service Rules, 2003 as amended by G.O.Ms.No.100, Law Department, dated 08.08.2013 as illegal;
- (2) a declaration that the petitioners are entitled to be continued as Field Assistants w.e.f. 01.04.2003 ignoring their paper promotion to the post of Junior Assistants;
- (3) a direction to the District Judge, Chittoor to place the petitioners in the category of Field Assistants for the purpose of Seniority and promotion to the post of Senior Assistants; and
- (4) to set aside the proceedings dated 30.04.2014 by which the newly impleaded respondents were either promoted or proposed to be promoted as Senior Assistants.

2. Heard Mr. P. Gangaiah Naidu, learned Senior Counsel appearing for the petitioners, learned Government Pleader for Law and Legislative Affairs and Mr. Posani Venkateswarlu, learned Standing Counsel for the Andhra Pradesh High Court.

3. The service particulars of the petitioners are as follows:

Petitioner	Date & post of first appointment	Date & post of promotion
Petitioner No.1	Appointed as Amin by proceedings Dt.14.11.1997	Promoted as Junior Assistant on 11.01.2008
Petitioner No.2	Appointed as Field Assistant by proceedings Dt. 09.12.1999	Promoted as Junior Assistant on 03.10.2011
Petitioner No.3	Appointed as Field Assistant by proceedings Dt. 09.12.1999	Promoted as Junior Assistant on 14.09.2011

Petitioner No.4	Appointed as Field Assistant by proceedings Dt. 03.12.1999	Promoted as Junior Assistant on 01.02.2013
Petitioner No.5	Appointed as Field Assistant by proceedings Dt. 06.12.1999	Promoted as Junior Assistant on 01.02.2013
Petitioner No.6	Appointed as Field Assistant by proceedings Dt. 06.12.1999	Promoted as Junior Assistant on 14.09.2011
Petitioner No.7	Appointed as Field Assistant by proceedings Dt. 09.12.1999	Promoted as Junior Assistant on 01.02.2013
Petitioner No.8	Appointed as Amin by proceedings Dt.14.11.1997	Promoted as Junior Assistant by proceedings Dt.11.01.2008

4. The grievance of the petitioners is that until the advent of the new set of Rules issued on the basis of the recommendations of Justice Shetty Commission, the various categories of posts in the Judicial Ministerial Service were governed by A.P. Judicial Ministerial Service Rules, 2003 issued under G.O.Ms.No.129, Law Department, Dated 12.11.2003; that the post of Field Assistant fell under Category-9; that the post of Junior Assistant fell under Category-5; that promotion to the post of Junior Assistant was to be from a combined seniority list of Examiners (Category-7), Copyists (Category-8) and Field Assistants (Category-9); that in accordance with these Rules of the year 2003 the petitioners were promoted from the post of Field Assistant to the post of Junior Assistant; that on the basis of the recommendations of Justice Shetty Commission, the Government issued G.O.Ms.No.100, Law Department, dated 08.08.2003 amending the Judicial Ministerial Service Rules; that under the new set of Rules, the post of Field Assistant was included in Category-10 and they are made eligible for promotion to the post of Senior Assistant along with Junior Assistants in Category-8 and Typists in Category-9 in a ratio of 5:1 in a cycle of six vacancies; that in a unit of six vacancies, every fourth vacancy is earmarked for Field Assistant; that the

new Rules are deemed to have come into force w.e.f. 01.04.2003; that Note-1 to Rule 5 of the new Rules holds out that the redesignation of posts will be implemented w.e.f. 01.04.2003, but will not affect the gradation or seniority of persons holding posts as on the date of implementation of the G.O; that by virtue of the said Note the petitioners, who were in the Category of Field Assistants as on 01.04.2003 are being deprived of promotional opportunities; that the petitioners were promoted as Junior Assistants as per the Rules then in force; that these promotions cannot be treated as promotions in terms of the new Rules, which have come into effect on 01.04.2003 and that the petitioners are entitled to be reckoned as Field Assistants as on the date of issue of G.O.Ms.No.100 dated 08.08.2013, so that they can be promoted to the post of Senior Assistants as per the ratio.

5. Heavy reliance is placed by Mr. Gangaiah Naidu, learned Senior Counsel appearing for the petitioners, upon the decision of a Bench of this Court in *S. Venkatesham v. High Court of Judicature at Hyderabad (W.P.No.12680 of 2015, decided on 24.03.2017)*, to drive home the contention that when the Rules of the game got changed under G.O.Ms.No.100, w.e.f. 01.04.2003, the events that happened before the issue of G.O. should not be put against the petitioners.

6. However, heavy reliance is placed by the learned Standing Counsel for the Registry of the High Court upon another judgment of this Court in *B.P. Phanendra Prasad and ors. V. Government of A.P. (W.P.No.12796 of 2014 decided on 16.11.2017)*, where the decision in *S. Venkatesham* was distinguished.

7. We have carefully considered the rival submissions. In order to have a proper understanding of the issues raised in the writ petition, it is

necessary to have a peep into the manner in which the Statutory Rules evolved over a period of time.

8. All the posts in the Judicial Ministerial Service of the State of Andhra Pradesh were originally governed by the Andhra Pradesh Judicial Ministerial Service Rules, 1964 issued under G.O.Ms.No.206, Home, dated 07.02.1964. The entire service was divided into 6 Divisions, viz., i) City; ii) Shroffs in City Courts; iii) Copyists in City Courts; iv) Mufassal Courts and Offices of Mufassal Public Prosecutors and Government Pleaders; v) Amins and Readers in Mufassal Courts and vi) Copyists in Mufassal Courts. Each one of the 6 divisions had different categories of posts.

9. But in supercession of these 1964 Rules, new set of Rules were issued under G.O.Ms.No.129, Law Department, dated 12.11.2003. These 2003 Rules were made applicable to the holders of all posts, whether temporary or permanent, appointed thereto before, on or after 01.11.1956. Rule 5 of the 2003 Rules dealt with the constitution of the Judicial Ministerial Service. It comprised of 9 categories of posts, which are as follows:

Rule-5. Constitution:- The service shall consist of the following categories of posts in the Andhra Pradesh Judicial Ministerial Service:

Category 1: Administrative Officers:- (Formerly designated as Sheristadars of the District Courts including posts formerly designated as Superintendents of the Civil and Criminal Courts in the City of Hyderabad Superintendents in (telengana area).

Category 2: Superintendents: (formerly designated as Central Nazirs, Head Clerks or District Courts and Additional District Courts and Hyderabad City Courts and Sheristadars of the Sub Courts, Translators, Head Clerks of District Munsif Courts, U.D. Record Keepers of District Courts and Senior Superintendents of Copyists of District Courts).

Category 3: Senior Assistants: (Formerly designated as U.D.Cs, Head Clerks of Sub Court, U.D. Bench Clerks of District Courts and Sub-Courts and Deputy Nazirs of the Munsiff Magistrate Courts.)

Category 4: Junior Assistants: (Including posts formerly designated as L.D.Cs, Junior Superintendents of Copyists and Assistant Superintendents of Copyists and Assistant Nazirs.)

Category 5: Personal Assistants: (Formerly designated as Steno-Typists).

Category 6: Typists.

Category 7: Examiners (Including the posts formerly designated as Readers). Category 8: Copyists.

Category 9: Field Assistants: (Formerly designated as Amins and Bailiffs).

10. Rule 6 of the 2003 Rules indicated the method of appointment and the appointing authority for all the categories of posts in the Judicial Ministerial Service. As per the table under Rule 6, the method of appointment to the post of Senior Assistant was by way of promotion from among Junior Assistants (Category-4) Personal Assistants (Category-5) and Typists (Category-6) from a combined seniority list. Similarly, the method of appointment to the post of Junior Assistant was (1) by direct recruitment; and (2) by promotion of Examiners (Category-7), Copyists (Category-8) and Field Assistants (Category-9) from a combined seniority list.

11. It can also be seen from Rule 5 of the 2003 Rules that –

1. persons holding the posts of Upper Division Clerks, Head Clerks of Sub-Courts, Upper Division Bench Clerks of District Courts and Sub-Courts and Deputy Nazirs of the Munsif and Magistrate Courts, were redesignated under the 2003 Rules as Senior Assistants;
2. persons holding the posts of Lower Division Clerks, Junior Superintendents of Copyists and Assistant Superintendents of Copyists and Assistant Nazirs were redesignated as Junior Assistants under the 2003 Rules; and
3. persons holding the posts of Amins and Bailiffs under the 1964 Rules were redesignated as Field Assistants under the 2003 Rules.

12. In other words, persons holding the posts of Amins and Bailiffs under the 1964 Rules were redesignated as Field Assistants under

Rule 5 of the 2003 Rules. Similarly, the persons holding the posts of Lower Division Clerks etc., under the 1964 Rules were redesignated as Junior Assistants under the 2003 Rules. Persons holding the posts of Upper Division Clerks or Head Clerks etc., under the 1964 Rules were redesignated as Senior Assistants under the 2003 Rules.

13. It must be remembered that these 2003 Rules issued under G.O.Ms.No.129, Law dated 12.11.2003 were made applicable, under Rule 1 (2), to the holders of all posts, whether temporary or permanent, appointed thereto, before, on or after 01.11.1956. Therefore, despite the fact that the writ petitioners herein were appointed in the years 1997 and 1999 under 1964 Rules to the posts that were in existence at that time, they came to be redesignated under the 2003 Rules as Field Assistants falling under Category-9 of Rule 5 of the 2003 Rules.

14. In view of the re-designation of posts under the 2003 Rules, two Notes were incorporated even under Rule 5 of the 2003 Rules. Note-1 under Rule 5 of the 2003 Rules, reads as follows:

“Note (1):- The re-designation of the posts as above will be only prospective and will not affect the gradation or seniority of persons holding posts as on the date of commencement of these rules.”

15. Therefore, the petitioners, who were appointed as Amins or Bailiffs in the year 1997 or 1999 in terms of 1964 Rules, got redesignated as Field Assistants falling under Category-9 of Rule 5 of the 2003 Rules, subject to Note-1 contained therein.

16. As per the recommendations of the First National Judicial Pay Commission, the Government of Andhra Pradesh issued G.O.Ms.No.50, Law Department, dated 23.04.2009. By this Government Order, the Andhra Pradesh Judicial Ministerial Service was sought to be restructured. By this Government Order, the staff pattern of subordinate courts was

completely revamped and 12 categories of posts were created (or) redesignated. They are:

1. Chief Administrative Officer,
2. Senior Sheristadars/Senior Superintendents,
3. Sheristadars/Superintendents,
4. Stenographers (Grade-I),
5. Stenographers (Grade-II),
6. Stenographers (Grade-III),
7. Upper Division Clerks,
8. Lower Division Clerks/Typists/Copyists,
9. Bailiffs/Amins,
10. Examiner/Reader,
11. Process Servers and
12. Attenders/Jamedars.

17. By another order in G.O.Ms.No.83, Law Department dated 02.09.2009, the Government clarified that the orders issued in G.O.Ms. No.50, dated 23.04.2009, shall be deemed to have come into force with effect from 01.04.2003 and that the arrears of pay to the judicial employees from 01.04.2003 to 30.04.2009 shall be credited to the General Provident Fund Account of the concerned individuals.

18. After the issue of the Government Orders as aforesaid, the Registry of the High court sought certain clarifications. Therefore, the Government issued yet another order in G.O.Ms.No.100, Law Department, dated 08.08.2013, making amendments to the Andhra Pradesh Judicial Ministerial Service Rules, 2003, which had earlier been issued under G.O.Ms.No.129, Law Department, dated 12.11.2003. Under the amendments inserted under G.O.Ms.No.100, dated 08.08.2013, the Judicial Ministerial Service was formed under Rule 5 to comprise of 12 categories of posts, namely,

1. Chief Administrative Officers,

2. Senior Superintendents,
3. Superintendents,
4. Stenographers (Grade-I),
5. Stenographers (Grade-II),
6. Stenographers (Grade-III),
7. Senior Assistants,
8. Junior Assistants,
9. Typists,
10. Field Assistants,
11. Examiners and
12. Copyists.

19. In Note-1 under Rule 5 of the Amended Rules, it was stated as follows:

“Note (1):- The re-designation of the posts as above will be only implemented with effect from 01.04.2003 and will not affect the gradation or seniority of persons holding posts as on the date of implementation of the G.O.”

20. It may be seen that what was incorporated as Note-1 under Rule 5 of the 2013 Rules, was just a reproduction of Note-1 under Rule 5 of the 2003 Rules except with a small difference. Note-1 under Rule 5 of the 2003 Rules, which we have extracted earlier, made the redesignation prospective. But Note-1 under Rule 5 of the 2013 Rules made the redesignation to take effect from 01.04.2003.

21. But the second part of Note-1 under Rule 5 of the 2013 Rules remained just the same as the second part of Note-1 under Rule 5 of the 2003 Rules. At the cost of repetition, the second part of Note-1 under Rule 5 of the 2003 as well as 2013 Rules is reproduced as follows:

“..... and will not affect the gradation or seniority of persons holding posts as on the date of implementation of the G.O.”

22. Therefore, there cannot really be a valid challenge to Note-1 under Rule 5 of the 2013 Rules, as it is nothing but a reproduction of

Note-1 under Rule 5 of the 2003 Rules. Hence the first prayer made by the petitioners, to declare Note-1 under Rule 5 as illegal, cannot stand.

23. We are concerned in this case with three categories of posts, viz., (1) Field Assistants; (2) Junior Assistants; and (3) Senior Assistants. Since the petitioners herein were working as Amins/Bailiffs under the 1964 Rules and they got redesignated as Field Assistants under the 2003 Rules (G.O.Ms.No.129) they were also promoted as Junior Assistants in terms of the prescription contained in column No.2 of the table under Rule 6 of the 2003 Rules as against Sl.No.4. If the 2003 Rules alone had continued to apply, the writ petitioners will be entitled to promotion to the post of Senior Assistants from a combined seniority list of Junior Assistants, Personal Assistants and Typists.

24. But after the advent of G.O.Ms.No.100, dated 08.08.2013, even the Field Assistants became entitled to be considered for promotion along with Junior Assistants, for the post of Senior Assistants. This can be seen from the table under Rule 6 of G.O.Ms.No.100, dated 08.08.2013, which is reproduced as follows:

Category and name of the post	Method of appointment	Appointing authority
1. Chief Administrative Officers	By promotion of Senior Superintendents (Category-2) and Stenographer Grade-I (Category-4) in the ratio of 5:1	District Judge
2. Senior Superintendents	By promotion of Superintendents (Category-3)	District Judge
3. Superintendents	By promotion of Senior Assistants (Category-7)	District Judge
4. Stenographers Grade-I	By promotion of Stenographers Grade-II (Category-5)	District Judge
5. Stenographers Grade-II	By promotion of Stenographers Grade-III (Category-6)	District Judge
6. Stenographers Grade-III	1. 60% by direct recruitment 2. 40% by promotion of Junior Assistants (Category-8) / Typists (Category-9) from a combined seniority	District Judge
7. Senior Assistants	By promotion of Junior Assistants (Category-8)/ Typists (Category-9) and Field Assistants (Category-10) by fixing the ration of 5:1 in a cycle of six (6) vacancies as prescribed in Note-2	District Judge

8. Junior Assistants	1. 50% by direct recruitment 2. 50% by promotion of Examiners (Category-11)/Copyists (Category-12) from the combined seniority and appointment by transfer from the post of Record Assistants, Drivers and Process Servers by fixing ration of 8:4:1:3 in a cycle of 16 vacancies as prescribed in Note-2.	District Judge
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25. Note-2 under the table below Rule 6 contains the cycle of promotions as follows:

“Note:2-Cycle for Promotion of Senior Assistants:

1. Junior Assistant/Typist
2. Junior Assistant/Typist
3. Junior Assistant/Typist
4. Field Assistant
5. Junior Assistant/Typist
6. Junior Assistant/Typist.

26. Admittedly, the petitioners are now working as Junior Assistants and even under the 2013 Rules they are entitled to be considered for promotion to the post of Senior Assistants. But the petitioners do not want to be considered for promotion to the post of Senior Assistants from the category of Junior Assistants. They want to be considered for promotion to the post of Senior Assistants from the category of Field Assistants.

27. This is despite the fact that 5 out of 6 vacancies in the post of Senior Assistants go to Junior Assistants and only 1 out of 6 vacancies go to the Field Assistants. But it appears that the number of Junior Assistants/Typists is so high that the chances of the petitioners getting their turn for promotion from the category of Junior Assistants is lesser than their chances of promotion from the category of Field Assistants. This is the true and actual background of this litigation.

28. A comparison of the 2003 Rules with the 2013 Rules would show that under the 2003 Rules a Field Assistant was not entitled to be

promoted directly to the post of Senior Assistant and he had to first get promoted as Junior Assistant to be eligible to be promoted as Senior Assistant. But the 2013 Rules have made Field Assistants as one of the feeder categories to the post of Senior Assistants. Today the only avenue of promotion for Field Assistants is to the post of Senior Assistants and that too in the ratio of 1 out of 6 vacancies, with the remaining 5 vacancies going to the Junior Assistants.

29. Keeping this in mind, let us have a look at the decision of this Court in *S. Venkatesham*, on which heavy reliance is placed. It will be of interest to note that while the petitioners rely upon the decision of this Court in *S. Venkatesham*, the respondents rely upon the decision of this Court in *B.P. Phanendra Prasad*, both of which were authored by one of us (VRS,J).

30. In *S. Venkatesham*, the petitioners were originally appointed as Steno Typists/Stenographers and were first promoted as Senior Assistants and then as Superintendents. After the advent of G.O.Ms.No.100, dated 08.08.2013, the post of Stenographers was classified into three categories and a separate avenue of promotion was created from Stenographer (Grade-I) directly to the post of Chief Administrative Officer. Therefore, this Court held that the option exercised by the Stenographers at a time when new avenues of promotion were not thrown open to them, cannot be held against them. But insofar as Field Assistants are concerned, they already had avenues of promotion to the post of Junior Assistant and the post of Junior Assistant itself is also one of the feeder categories to the post of Senior Assistant. In other words, the petitioners in this writ petition have actually come to the feeder category of Junior Assistant for promotion to the post of Senior Assistant and it is the post earlier held by

them which has also now become a feeder category to the post of Senior Assistant. In other words, the petitioners in this writ petition are already in the feeder category for promotion to the post of Senior Assistant and a new situation is not created by G.O.Ms.No.100, dated 08.08.2013, insofar as the post of Junior Assistant is concerned. But a new situation is created under G.O.Ms.No.100, dated 08.08.2013 in respect of Stenographers. Therefore, the petitioners cannot seek the same benefit as conferred upon Stenographers in the decision in *S. Venkatesham*.

31. In contrast, the case of the petitioners is identical to that of the petitioners in *B.P. Phanendra Prasad*. The petitioners in *B.P. Phanendra Prasad* were also originally working as Amins and Bailiffs and got redesignated as Field Assistants in terms of the 2003 Rules, just as the petitioners in this writ petition are. The status as well as the case of the petitioners in *B.P. Phanendra Prasad* were exactly identical to the case of the petitioners herein.

32. However, Mr. Gangaiah Naidu, learned Senior Counsel appearing for the petitioners sought to make a distinction by pointing out that the petitioners in *B.P. Phanendra Prasad* committed a mistake in seeking promotion directly to the post of Senior Assistants, without first seeking redesignation as Field Assistants. In the case on hand, the petitioners are seeking to go back from the post of Junior Assistants to the post of Field Assistants, so that they can thereafter claim promotion from the post of Field Assistant to the post of Senior Assistant as against 1 out of 6 vacancies.

33. But we do not think that the above distinction holds out anything. The petitioners in *B.P. Phanendra Prasad* were first appointed as Amins and Bailiffs under the 1964 Rules and were redesignated as Field

Assistants under the 2003 Rules and promoted as Junior Assistants later. The petitioners in the present writ petition were also originally appointed as Amins and Bailiffs under the 1964 Rules, got redesignated as Field Assistants under the 2003 Rules and later promoted as Junior Assistants. The petitioners in *B.P. Phanendra Prasad* and the petitioners in the present writ petition do not want their cases to be considered under 5 out of 6 quota reserved for Junior Assistants, but want to be considered under 1 out of 6 quota reserved for Field Assistants. Therefore, the case of the petitioners is identical to that of the petitioners in *B.P. Phanendra Prasad*. The fact that the petitioners in *B.P. Phanendra Prasad* did not seek redesignation before seeking promotion, is hardly a matter of importance.

34. As we have pointed out earlier, the case of Stenographers stood on a completely different footing. A single category of Stenographer was actually bifurcated into three different categories, with one of them being made the feeder category to the highest post of Chief Administrative Officer in the Ministerial Service. This is something that was not available under the 2003 Rules. Therefore, it was held in *S. Venkatesham* that what the Stenographers chose when they had no option, could not be held against them.

35. But in the case of Field Assistants they have already got promoted to the post of Junior Assistants and have actually become eligible for promotion to the post of Senior Assistants. The post formerly held by them, viz., the post of Field Assistant, has now been equated to the post of Junior Assistant and included as one of the feeder categories for promotion to the post of Senior Assistant. It is just a change of equation (Whether to come under 5 out of 6 or to come under 1 out of 6) that the petitioners are now fighting for.

36. One more distinguishing feature is that in the case of Stenographers, redesignation was possible w.e.f. 01.04.2003. But in the case of the petitioners they have to be first reverted, and that is not possible. Therefore, the writ petition is devoid of merits and hence it is dismissed. There shall be no order as to costs. As a sequel, miscellaneous petitions pending in this writ petition, if any, shall stand closed.

V. RAMASUBRAMANIAN, J.

T. AMARNATH GOUD, J.

9th April, 2018

Js.

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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE T. AMARNATH GOUD

W.P.No.5948 of 2014

(Per VRSJ)



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